



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

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March 14, 1994

MR NED WOODFIELD
SOUTHWICK & MONTGOMERY DITCH
1808 NORTH 400 EAST
OGDEN, UT 84404

Dear Mr. Woodfield:

Re: Measuring Devices

A letter dated December 21, 1993 was received by this office from the Ogden River Rights Committee. The letter indicates that the Ogden River Commissioner is unable to regulate the water diverted into the Southwick and Montgomery ditch located in the North Fork of the Ogden River, in Section 6, T7N, R1E, SLB&M because of the lack of a lockable headgate and measuring device.

A Research of the Ogden Distribution System files, indicates that on June 15, 1988 a letter was sent to the owners of the water rights asking them to install a headgate and measuring device, however no follow-up for compliance was undertaken in this regard.

Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. ...If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such head gates, caps, valves, flumes or measuring devices after thirty days' notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement."

Therefore, you are hereby notified that the Southwick and Montgomery ditch is to be equipped with a functional and accurate measuring device and lockable headgate prior to **April 30, 1994**. This diversion will be inspected for compliance and if not in compliance it will be tagged by the River Commissioner. The tag will represent an order to cease the use of water. The State Engineer will then direct the Commissioner to close the diversion or proceed to take legal action through a court order requiring that the diversion be closed until such time as the headgate and measuring device are



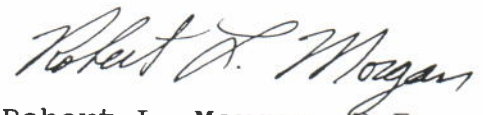
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installed. This letter commences informal adjudicative proceedings to be conducted pursuant to Rules R655-6 of the Administrative Rules of the Division of Water Rights.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice please contact John Mann at 538-7397 or Lee Sim at 538-7380.

Sincerely,



Robert L. Morgan, P.E.
State Engineer

RLM:GA

cc: ~~RF~~ Lee Sim
S John Mann
S John Mabey, Asst. Attorney General
S Blaine Johnson, River Commissioner